

Atty. Docket No. P61950US1
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of STOFFEL et al.

Serial No.: 09/485,473

Filed: February 11, 2000

For: NEUTRAL SPHINGOMYELINASE



RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

The instant paper responds to the Office Action mailed March 27, 2001.

Applicants elect to prosecute the claims of Group I, i.e., claims 1, 2, 14, and 15, with traverse, in response to the requirement for restriction under 35 USC 121.

Traverse is maintained to the extent restriction is required between the claims of Group I and the claims of Group III, i.e., claims 3-8, 10, 11, 20, 23, and 24.

Applicants traverse the restriction between the claims of Group I and the claims of Group III because the reasoning under Item V of the Office Action is incorrect. The reasoning assumes that the protein disclosed by Chatterjee would be a variant of the sphingomyelinase according to the present invention. However, this protein has nothing to do with the sphingomyelinase of the present invention as claimed. This becomes evident from a comparison of the special sequences. According to applicants' data, the two sequences do not have any stronger relation between each other than arbitrarily chosen sequences would have. Therefore, the sequences are different.

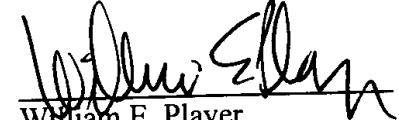
Perhaps, there was confusion, since in both applications the term "Sphingomyelinase" appeared. The two different proteins have a probability of having the same enzyme activity. Thus, it is simply wrong to allege that the invention has been previously described.

Favorable action is requested.

Respectfully submitted,

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By:


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AMENDMENT

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

The instant amendment is submitted in conjunction with the Response to Notice to Comply with Sequence Rules, filed concurrently herewith.

IN THE SPECIFICATION

Insert the Sequence Listing, filed concurrently herewith, at the end of the application.

R E M A R K S

By the instant amendment, the Sequence Listing, filed concurrently herewith on paper and in computer readable form, i.e., saved on computer diskette, is added to the application.

Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

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